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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/033,143	10/26/2001	Holger Warth	Mo-6716 LeA 34,676	1812
157	7590	05/25/2005	EXAMINER	
BAYER MATERIAL SCIENCE LLC 100 BAYER ROAD PITTSBURGH, PA 15205			YOON, TAE H	
			ART UNIT	PAPER NUMBER
			1714	
DATE MAILED: 05/25/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/033,143

Applicant(s)

WARTH ET AL

Examiner

Tae H. Yoon

Art Unit

1714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 7 and 10-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7 and 10-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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See attached copy of page 7 wherein the amount for example 1 in table 1 is missing. The specification is objected since the nature of components used in working and comparative examples such as NAPVIS, Poly 10, Admoll D0, Oppanol B200, Royaltuf 372 and WX270, is not taught. Incorporation of information on said products would be needed without introducing new matter. Submission of product brochures published before the invention showing such information is needed.

Line 2 of claim 7 contains a typo, Is, after (co)polymer.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, 7 and 10-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The recited molecular weight for EPDM is indefinite absent weight or number average molecular weight.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 7 and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita et al (US 5,021,504) and Katayama et al (US 6,111,016).

Fujita et al teach thermoplastic composition comprising polycarbonate and acrylonitrile-ethylene-propylene-styrene resin in tables 5-7.

The instant invention further recites low molecular weight additive (processing aid), flame retardant and mineral filler over Fujita et al. However, the use of processing aid such as stearic acid triglyceride, flame retardant and mineral filler in a blend of polycarbonate and rubbery polymer is well known as taught by Katayama et al, col. 6, line 24 to col. 18, line 24. Said flame retardant and mineral filler would provide flame retardancy and improved physical properties, respectively, for a polymeric composition. Also, said processing aid such as stearic acid triglyceride would provide an easier molding process.

It would have been obvious to one skilled in the art at the time of invention to utilize the art well known processing aid such as stearic acid triglyceride, and flame retardant or mineral filler of Katayama et al in Fujita et al since the use of said additives in polymeric compositions in order to provide an easier molding process, flame retardancy and improved physical properties, respectively, and since such practice is a routine in the art absent showing otherwise.

Claims 1, 2, 7, 10, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fujita et al (US 5,021,504) and Medsker et al (US 6,084,031).

Fujita et al teach thermoplastic composition comprising polycarbonate and acrylonitrile-ethylene-propylene-styrene resin in tables 5-7.

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The instant invention further recites low molecular weight additive (polybutene oil), flame retardant and mineral filler over Fujita et al. However, the use of processing aid such as polybutene oil, flame retardant and mineral filler in a blend of polycarbonate and rubbery polymer is well known as taught by Medsker et al, col. 7, lines 40-57 and col. 11, lines 30-31.

It would have been obvious to one skilled in the art at the time of invention to utilize the art well known processing aid such as polybutene oil, and flame retardant or mineral filler of Medsker et al in Fujita et al since the use of said additives in polymeric compositions in order to provide an easier molding process, flame retardancy and improved physical properties, respectively, and since such practice is a routine in the art absent showing otherwise.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tae H. Yoon whose telephone number is (571) 272-1128. The examiner can normally be reached on Mon-Thu.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Tae H Yoon
Primary Examiner
Art Unit 1714

THY/May 23, 2005

No-6716

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Attachment to Action

missing amount

Table 1	Comparison 1 (18 parts by wt. WX270)	Comparison 2 (18 parts by wt. Royaltuf® 372)	Example 1 (1 part by wt. Maize oil (18 parts by wt. Royaltuf® 372)	Example 2 (5 parts by wt. Maize oil (18 parts by wt. Royaltuf® 372)	Example 3 (5 parts by wt. Maize oil (18 parts by wt. WX270)	Example 4 (10 parts by wt. Maize oil (18 parts by wt. Royaltuf® 372)	Example 5 (10 parts by wt. Maize oil (18 parts by weight WX270)
a_k Izod 23°C [kJ/m ²]	47	44	48	41	84	42	47
Rubber-glass transition	-15	-5	-5	-25	-25	-25	-50
MVR 260°C/5 kg [ml/10min]	10	8	12	16	12	22	13
Δ soft phase	0	0	+1%	+1%	+2%	+0.5%	+6.9%